

Introduced by Senator Florez

February 14, 2009

An act to amend Sections 2116, 2224, 2225, and 2226 of, and to add Sections 2227 and 2228 to, the Elections Code, relating to voters.

LEGISLATIVE COUNSEL'S DIGEST

SB 172, as introduced, Florez. Voter registration.

Under existing law, the registration of a voter is permanent for all purposes during his or her life, unless and until the affidavit of registration is cancelled by a county elections official for a specified cause. Existing law authorizes a county elections official, if a voter has not voted in any election within the preceding 4 years, and the residence, address, name, or party affiliation of the voter has not been updated during that time, to send an alternate residency confirmation postcard that describes the alternate residency procedure. If a county uses the alternate residency confirmation procedure, the county is required to notify all voters of the procedure in the sample ballot pamphlet or in a separate mailing. A voter in that county is also given the opportunity to vote at a statewide primary or general election between the date of the notice and the beginning of the alternate residency procedure. Existing law further authorizes a county elections official to cancel the voter registration of a voter whose name has been placed on the inactive file of registered voters for failure to respond to a confirmation mailing or an address verification mailing and who does not offer to vote or vote at any election between the date of the mailing and 2 federal general elections after the date of that mailing.

This bill would instead provide that a county elections official may cancel the voter registration of a voter whose name has been placed on the inactive file of registered voters for failure to respond to a

confirmation mailing or an address verification mailing and who does not offer to vote or vote at any election between the date of the mailing and 4 federal general elections after the date of that mailing. The bill would provide that when the voter registration of a voter is cancelled, the voter may vote at a subsequent election and have his or her ballot counted, subject to specified restrictions, if he or she can establish proof of residency. If the voter votes at the subsequent election and offers proof of residency within the county where he or she was previously registered to vote, the name of a voter shall be placed on the active voter file.

The bill would further provide that if the voter votes at the subsequent election and offers proof of residency within a different county, the voter may cast a ballot only for statewide offices, statewide measures, a presidential candidate, or a candidate for United States Senate or House of Representatives. If a voter offers proof of residency within a different county, the elections official would be required to immediately notify the elections official of the county to which the voter has moved. Upon receipt of the notice, the elections official of the county to which the voter has moved would be required to send to the voter a voter registration card and to instruct the voter that the voter would be required to reregister on a new affidavit of registration.

The bill would provide that if the voter registration of a voter is cancelled and the voter desires to vote in a subsequent election pursuant to this act and cannot show proof of residency, the voter may cast a provisional ballot.

By increasing duties of elections officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2116 of the Elections Code is amended
2 to read:

3 2116. (a) Whenever a voter, between the time of that person's
4 last voter registration and the time for the closing of registration
5 for any given election, has changed his or her residence address
6 by moving, the voter shall execute a new affidavit of registration
7 or a notice or a letter of the change of address as permitted in
8 Section 2119, in order to be eligible to vote at the next election.

9 (b) Notwithstanding subdivision (a), a voter who has changed
10 his or her residence address by moving may vote at the election
11 immediately following the change of residence if he or she is
12 entitled to vote under Section 2035 or 14311.

13 (c) *Notwithstanding subdivision (a), a voter who has changed*
14 *his or her residence address by moving may vote an election*
15 *following the change of residence if he or she is entitled to vote*
16 *under Section 2227.*

17 SEC. 2. Section 2224 of the Elections Code is amended to read:

18 2224. (a) If a voter has not voted in any election within the
19 preceding four years, and his or her residence address, name, or
20 party affiliation had not been updated during that time, the county
21 elections official may send an alternate residency confirmation
22 postcard. The use of this postcard may be sent subsequent to NCOA
23 or sample ballot returns, but shall not be used in the residency
24 confirmation process conducted under Section 2220. The postcard
25 shall be forwardable, including a postage-paid and preaddressed
26 return form to enable the voter to verify or correct the address
27 information, and shall be in substantially the following form:

28 “If the person named on the postcard is not at this address,
29 PLEASE help keep the voter rolls current and save taxpayer dollars
30 by returning this postcard to your mail carrier.”

31 “IMPORTANT NOTICE”

32 “According to our records you have not voted in any election
33 during the past four years, which may indicate that you no longer
34 reside in ____ County. If you continue to reside in this county you
35 must confirm your residency address in order to remain on the
36 active voter list and receive election materials in the mail.”

37 “If confirmation has not been received within 15 days, you may
38 be required to provide proof of your residence address in order to

1 vote at future elections and, if you do not appear or offer to vote
2 at any election in the period between the date of this notice and
3 the ~~second~~ *fourth* federal general election after the date of this
4 notice, your voter registration will be cancelled and you will have
5 to reregister in order to vote, *unless you can establish proof of*
6 *residency in this county*. If you no longer live in ____ County, you
7 must reregister at your new residence address in order to vote in
8 the next election. California residents may obtain a mail registration
9 form by calling the county elections office of the Secretary of
10 State's Office.”

11 (b) The use of a toll-free number to confirm the old residence
12 address is optional. Any change to a voter's address shall be
13 received in writing.

14 (c) Any county using the alternate residency confirmation
15 procedure shall notify all voters of the procedure in the sample
16 ballot pamphlet or in a separate mailing. The voter shall be given
17 an opportunity to vote at a statewide primary or general election
18 between the date of notice and the beginning of the alternate
19 residency procedure.

20 SEC. 3. Section 2225 of the Elections Code is amended to read:

21 2225. (a) Based on change of address data received from the
22 United States Postal Service or its licensees, the county elections
23 official shall send a forwardable notice, including a postage-paid
24 and preaddressed return form, to enable the voter to verify or
25 correct address information.

26 Notification received through NCOA or Operation Mail that a
27 voter has moved and has given no forwarding address shall not
28 require the mailing of a forwardable notice to that voter.

29 (b) If a change of address indicates that the voter has moved to
30 a new residence address in the same county, the forwardable notice
31 shall be in substantially the following form:

32 “We have received notification that the voter has moved to a
33 new residence address in ____ County. You will be registered to
34 vote at your new address unless you notify our office within 15
35 days that the address to which this card was mailed is not a change
36 of your permanent residence. You must notify our office by either
37 returning the attached postage-paid postcard, or by calling toll
38 free. If this is not a permanent residence, and if you do not notify
39 us within 15 days, you may be required to provide proof of your
40 residence address in order to vote at future elections.”

(c) If change of address data indicates that the voter has moved to a new address in another county, the forwardable notice shall be in substantially the following form: “We have received notification that you have moved to a new address not in _____ County. Please use the attached postage-paid postcard to: (1) advise us if this is or is not a permanent change of residence address, or (2) to advise us if our information is incorrect. If you do not return this card within 15 days and continue to reside in _____ County, you may be required to provide proof of your residence address in order to vote at future elections and, if you do not offer to vote at any election in the period between the date of this notice and the ~~second~~ *fourth* federal general election following this notice, your voter registration will be cancelled and you will have to reregister in order to vote, *unless you can establish proof of residency in this county*. If you no longer live in _____ County, you must reregister at your new residence address in order to vote in the next election. California residents may obtain a mail registration form by calling the county elections officer or 1-800-345-VOTE.”

(d) If postal service change-of-address data received from a nonforwardable mailing indicates that a voter has moved and left no forwarding address, a forwardable notice shall be sent in substantially the following form:

“We are attempting to verify postal notification that the voter to whom this card is addressed has moved and left no forwarding address. If the person receiving this card is the addressed voter, please confirm your continued residence or provide current residence information on the attached postage-paid postcard within 15 days. If you do not return this card and continue to reside in _____ County, you may be required to provide proof of your residence address in order to vote at future elections and, if you do not offer to vote at any election in the period between the date of this notice and the ~~second~~ *fourth* federal general election following this notice, your voter registration will be cancelled and you will have to reregister in order to vote, *unless you can establish proof of residency in this county*. If you no longer live in _____ County, you must reregister at your new residence address in order to vote in the next election. California residents may obtain a mail registration form by calling the county elections office or the Secretary of State’s Office.”

1 (e) The use of a toll-free number to confirm the old residence
2 address is optional. Any change to the voter address must be
3 received in writing.

4 SEC. 4. Section 2226 of the Elections Code is amended to read:

5 2226. (a) Based on change-of-address information received
6 pursuant to Sections 2220 to 2225, inclusive, or change-of-address
7 information provided directly by the voter, the county elections
8 official shall take the following actions as appropriate:

9 (1) If the information indicates the voter has moved to a new
10 address within the same county, the county elections official shall
11 update and correct the voter's registration.

12 (2) If the information indicates the voter has moved to a new
13 address in another county, if the mailings have been returned as
14 undeliverable, or if the voter fails to confirm his or her address as
15 required by Section 2224, the county elections official may place
16 the voter's name on the inactive file of registered voters who do
17 not receive election materials and are not included in calculations
18 to determine the number of signatures required for qualification
19 of candidates and measures, precinct size, or other election
20 administration related processes.

21 (3) If the voter verifies in writing that he or she has moved to
22 a residence address in another county, the county elections official
23 shall cancel the voter registration in the county from which the
24 voter has moved.

25 (b) (1) The voter registration of any voter whose name has been
26 placed on the inactive file of registered voters for failure to respond
27 to a confirmation mailing as required by Section 2224 or an address
28 verification mailing required by Section 2225, and who does not
29 offer to vote or vote at any election between the date of the mailing
30 and ~~two~~ four federal general elections after the date of that mailing,
31 may be cancelled.

32 (2) *Notwithstanding paragraph (1), when the voter registration*
33 *of a voter is cancelled, the voter may vote at a subsequent election*
34 *pursuant to Section 2227.*

35 (c) Any voter whose name has been placed on the inactive file
36 of registered voters and offers to vote at any election between the
37 date of the verification notice, and ~~two~~ four federal general
38 elections after the date of notice, or who notifies the elections
39 official of a continued residency, shall be removed from the
40 inactive file and placed on the active voter file.

1 (d) All address corrections, cancellations, and inactive
2 transactions made to the voter registration file pursuant to this
3 section shall be reflected on the voter index as required by Section
4 2191.

5 SEC. 5. Section 2227 is added to the Elections Code, to read:

6 2227. (a) When the voter registration of a voter is cancelled,
7 the voter may vote in a subsequent election and have his or her
8 ballot counted if he or she can show proof of residency within the
9 county where the voter was previously registered. The voter shall
10 not be required to reregister within the county and the name of a
11 voter who votes at an election pursuant to this subdivision shall
12 be placed on the active voter file. The elections official shall change
13 the address on the voter's affidavit of registration accordingly.

14 (b) When the voter registration of a voter is cancelled and the
15 voter shows proof of residency within a different county than the
16 county where the voter was previously registered, the voter may
17 cast a ballot only for statewide offices, statewide measures, a
18 presidential candidate, or a candidate for the United States Senate
19 or House of Representatives. The elections official shall
20 immediately notify the elections official of the county to which
21 the voter has moved. Upon receipt of the notice, the elections
22 official of the county to which the voter has moved shall send to
23 the voter a voter registration card, and shall instruct the voter that
24 in order to record a change of address, the voter must reregister
25 on a new affidavit of registration.

26 (c) (1) When the voter shows proof of residency within the
27 county where the voter was previously registered, the voter is
28 entitled to vote in the precinct where he or she resides.

29 (2) If the voter casts his or her ballot in a precinct other than
30 the precinct where he or she resides, the elections official shall
31 count the votes for the entire ballot if the ballot cast by the voter
32 contains the same candidates and measures on which the voter
33 would have been entitled to vote in his or her assigned precinct.

34 (3) If the ballot cast by the voter contains candidates or measures
35 on which the voter would not have been entitled to vote in his or
36 her assigned precinct, the elections official shall count only the
37 votes for the candidates and measures on which the voter would
38 have been entitled to vote in his or her assigned precinct.

39 (d) For a partisan primary election, the voter shall be given a
40 ballot for the qualified political party that he or she was previously

1 registered. If the elections official cannot determine the qualified
2 political party that the voter was previously registered with, the
3 voter shall be treated as a voter not registered as intending to
4 affiliate with any one of the political parties participating in the
5 election and the voter may cast a ballot as described in subdivision
6 (b) of Section 13102.

7 SEC. 6. Section 2228 is added to the Elections Code, to read:

8 2228. (a) If the voter registration of a voter is cancelled and
9 the voter desires to vote in a subsequent election pursuant to
10 Section 2227 but cannot show proof of residency, the voter may
11 cast a provisional ballot pursuant to Section 14310.

12 (b) For purposes of Section 14310, a voter whose voter
13 registration is cancelled shall be deemed to be entitled to vote if
14 he or she was previously registered to vote within the county and
15 the voter currently resides within the county.

16 SEC. 7. If the Commission on State Mandates determines that
17 this act contains costs mandated by the state, reimbursement to
18 local agencies and school districts for those costs shall be made
19 pursuant to Part 7 (commencing with Section 17500) of Division
20 4 of Title 2 of the Government Code.